

By Senator Osgood

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1 A bill to be entitled
2 An act relating to machine guns; amending s. 790.001,
3 F.S.; revising the definition of the term "machine
4 gun"; reenacting s. 921.0024(1)(b), F.S., relating to
5 the worksheet key for worksheet computations of the
6 Criminal Punishment Code, to incorporate the amendment
7 made to s. 790.001, F.S., in a reference thereto;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (9) of section 790.001, Florida
13 Statutes, is amended to read:

14 790.001 Definitions.—As used in this chapter, except where
15 the context otherwise requires:

16 (9) "Machine gun" means any firearm, as defined herein,
17 which:

18 (a) Shoots, or is designed to shoot, automatically more
19 than one shot, without manually reloading, by a single function
20 pull of the trigger; or

21 (b) Can be modified by a conversion kit, a tool, an
22 accessory, or a device that is used to alter the rate of fire of
23 the firearm to mimic automatic weapon fire or that is used to
24 increase the rate of fire to a faster rate than is possible for
25 a person to fire such firearm unassisted by a kit, a tool, an
26 accessory, or a device by a single function pull of the trigger.

27 Section 2. For the purpose of incorporating the amendment
28 made by this act to section 790.001, Florida Statutes, in a
29 reference thereto, paragraph (b) of subsection (1) of section

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30 921.0024, Florida Statutes, is reenacted to read:

31 921.0024 Criminal Punishment Code; worksheet computations;
32 scoresheets.-

33 (1)

34 (b) WORKSHEET KEY:

35

36 Legal status points are assessed when any form of legal status
37 existed at the time the offender committed an offense before the
38 court for sentencing. Four (4) sentence points are assessed for
39 an offender's legal status.

40

41 Community sanction violation points are assessed when a
42 community sanction violation is before the court for sentencing.
43 Six (6) sentence points are assessed for each community sanction
44 violation and each successive community sanction violation,
45 unless any of the following apply:

46 1. If the community sanction violation includes a new
47 felony conviction before the sentencing court, twelve (12)
48 community sanction violation points are assessed for the
49 violation, and for each successive community sanction violation
50 involving a new felony conviction.

51 2. If the community sanction violation is committed by a
52 violent felony offender of special concern as defined in s.
53 948.06:

54 a. Twelve (12) community sanction violation points are
55 assessed for the violation and for each successive violation of
56 felony probation or community control where:

57 I. The violation does not include a new felony conviction;
58 and

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59 II. The community sanction violation is not based solely on
60 the probationer or offender's failure to pay costs or fines or
61 make restitution payments.

62 b. Twenty-four (24) community sanction violation points are
63 assessed for the violation and for each successive violation of
64 felony probation or community control where the violation
65 includes a new felony conviction.

66

67 Multiple counts of community sanction violations before the
68 sentencing court shall not be a basis for multiplying the
69 assessment of community sanction violation points.

70

71 Prior serious felony points: If the offender has a primary
72 offense or any additional offense ranked in level 8, level 9, or
73 level 10, and one or more prior serious felonies, a single
74 assessment of thirty (30) points shall be added. For purposes of
75 this section, a prior serious felony is an offense in the
76 offender's prior record that is ranked in level 8, level 9, or
77 level 10 under s. 921.0022 or s. 921.0023 and for which the
78 offender is serving a sentence of confinement, supervision, or
79 other sanction or for which the offender's date of release from
80 confinement, supervision, or other sanction, whichever is later,
81 is within 3 years before the date the primary offense or any
82 additional offense was committed.

83

84 Prior capital felony points: If the offender has one or more
85 prior capital felonies in the offender's criminal record, points
86 shall be added to the subtotal sentence points of the offender
87 equal to twice the number of points the offender receives for

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88 the primary offense and any additional offense. A prior capital
89 felony in the offender's criminal record is a previous capital
90 felony offense for which the offender has entered a plea of nolo
91 contendere or guilty or has been found guilty; or a felony in
92 another jurisdiction which is a capital felony in that
93 jurisdiction, or would be a capital felony if the offense were
94 committed in this state.

95

96 Possession of a firearm, semiautomatic firearm, or machine gun:
97 If the offender is convicted of committing or attempting to
98 commit any felony other than those enumerated in s. 775.087(2)
99 while having in his or her possession: a firearm as defined in
100 s. 790.001(6), an additional eighteen (18) sentence points are
101 assessed; or if the offender is convicted of committing or
102 attempting to commit any felony other than those enumerated in
103 s. 775.087(3) while having in his or her possession a
104 semiautomatic firearm as defined in s. 775.087(3) or a machine
105 gun as defined in s. 790.001(9), an additional twenty-five (25)
106 sentence points are assessed.

107

108 Sentencing multipliers:

109

110 Drug trafficking: If the primary offense is drug trafficking
111 under s. 893.135, the subtotal sentence points are multiplied,
112 at the discretion of the court, for a level 7 or level 8
113 offense, by 1.5. The state attorney may move the sentencing
114 court to reduce or suspend the sentence of a person convicted of
115 a level 7 or level 8 offense, if the offender provides
116 substantial assistance as described in s. 893.135(4).

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118 Law enforcement protection: If the primary offense is a
119 violation of the Law Enforcement Protection Act under s.
120 775.0823(2), (3), or (4), the subtotal sentence points are
121 multiplied by 2.5. If the primary offense is a violation of s.
122 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
123 are multiplied by 2.0. If the primary offense is a violation of
124 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
125 Protection Act under s. 775.0823(10) or (11), the subtotal
126 sentence points are multiplied by 1.5.

127

128 Grand theft of a motor vehicle: If the primary offense is grand
129 theft of the third degree involving a motor vehicle and in the
130 offender's prior record, there are three or more grand thefts of
131 the third degree involving a motor vehicle, the subtotal
132 sentence points are multiplied by 1.5.

133

134 Offense related to a criminal gang: If the offender is convicted
135 of the primary offense and committed that offense for the
136 purpose of benefiting, promoting, or furthering the interests of
137 a criminal gang as defined in s. 874.03, the subtotal sentence
138 points are multiplied by 1.5. If applying the multiplier results
139 in the lowest permissible sentence exceeding the statutory
140 maximum sentence for the primary offense under chapter 775, the
141 court may not apply the multiplier and must sentence the
142 defendant to the statutory maximum sentence.

143

144 Domestic violence in the presence of a child: If the offender is
145 convicted of the primary offense and the primary offense is a

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146 crime of domestic violence, as defined in s. 741.28, which was
147 committed in the presence of a child under 16 years of age who
148 is a family or household member as defined in s. 741.28(3) with
149 the victim or perpetrator, the subtotal sentence points are
150 multiplied by 1.5.

151

152 Adult-on-minor sex offense: If the offender was 18 years of age
153 or older and the victim was younger than 18 years of age at the
154 time the offender committed the primary offense, and if the
155 primary offense was an offense committed on or after October 1,
156 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
157 violation involved a victim who was a minor and, in the course
158 of committing that violation, the defendant committed a sexual
159 battery under chapter 794 or a lewd act under s. 800.04 or s.
160 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
161 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
162 800.04; or s. 847.0135(5), the subtotal sentence points are
163 multiplied by 2.0. If applying the multiplier results in the
164 lowest permissible sentence exceeding the statutory maximum
165 sentence for the primary offense under chapter 775, the court
166 may not apply the multiplier and must sentence the defendant to
167 the statutory maximum sentence.

168 Section 3. This act shall take effect July 1, 2023.